

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18665 of 2015

Arising Out of PS. Case No.-138 Year-2010 Thana- CHARPOKHARI District- Bhojpur

1. Sanju Devi, wife of Uma Shankar Rai, permanent resident of Village Gayghat, P.S. Simari, District Buxar presently residing at Village Surajpur near Greater Noida, District Gautam Bubh Nagar UP.
2. Uma Shankar Rai, son of Late Radhe Shyam Rai, permanent resident of Village Gayghat, P.S. Simari, District Buxar and presently residing at Village Surajpur near Greater Noida, District Gautam Budh Nagar UP.
3. Gyan Mala Devi, wife of Shri Anil Kumar Rai, permanent resident of Village Kharaona, P.S. Tarari, District Bhojpur presently residing at Village Gayghat, P.S. Simari, District Buxar.
4. Sneh Prabha Devi, wife of Late Radhe Shyam Rai, permanent resident at Village Gaighat, P.S.- Simari, District Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Anju Bhatt, daughter of Shri Dharamdeo Bhatt, resident of Village and P.O. Balbandh, P.S. Charpokhari, District Bhojpur.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 19531 of 2015

Arising Out of PS. Case No.-138 Year-2010 Thana- CHARPOKHARI District- Bhojpur

1. Meena Devi, Wife of Rama Shankar Rai.
2. Rama Shankar Rai, Son of Late Radheshyam Rai.
Both Resident of Village - Gaighat, P.O.- Asha Padri, P.S. - Simri, District – Buxar, Bihar, Presently Residing At Air Force Record Office, Service Married Quarter No. B-95, Subrato Park, P.S. - Delhi Cantt. New Delhi.



... .. Petitioner/s

Versus

1. The State of Bihar.
2. Anju Bhatt, Daughter of Sri Dharamdeo Bhatt, Resident of Village and P.O.
- Balbandh, P.S.-Charpokhary, District - Bhojpur at Ara.

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 18665 of 2015)

For the Petitioner/s	:	Dr. Amrendra Kumar, Adv. Mr. Rajendra Prasad, Adv.
For the State	:	Mr. Md. Aslam Ansari, APP
For the O.P. No. 2	:	Mr. Samarendra Kumar Verma, Adv. Mr. Jai Vardhan Narayan, Adv. Mr. Chandan Kr. Verma, Adv.

(In CRIMINAL MISCELLANEOUS No. 19531 of 2015)

For the Petitioner/s	:	Mr. Ramakant Sharma, Sr. Adv. Mr. Rakesh Kr. Sharma, Adv.
For the State	:	Mr. M.K.Nirala, APP
For the O.P. No. 2	:	Mr. Sarvendra Kumar Verma, Adv. Mr. Jai Vardhan Narayan, Adv. Mr. Chandan Kr. Verma, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

10 15-11-2019 Both the applications have been heard

together and are being disposed off by this common

order.

The petitioners in Cr. Misc. No. 18665 of
2015 are the elder brother's wife, elder brother,



married sister-in-law and mother-in-law, who is reported to be dead, respectively.

Dr. Amrendra Kumar, learned counsel for the petitioners in Cr. Misc No. 18665 of 2015 seeks permission of this Court to delete the name of petitioner No. 4/Sneh Prabha Devi (mother-in-law) from the array of the parties.

Permission is accorded.

The name of petitioner No. 4 is deleted.

In Cr. Misc. No. No. 19531 of 2015, the petitioners are the elder brother's wife and elder brother, respectively, who are being represented by Mr. Ramakant Sharma, learned Senior Advocate.

The allegation in the F.I.R. is that shortly after the marriage of opposite party No. 2 with one Vinay Shankar, the demand of dowry in the shape of car and cash, which was initiated at the time of settlement of marriage, resurfaced. It has been alleged that all the members of the family including the petitioners in both the applications performed their



part of incitement to the other family members to trouble and harass the opposite party No. 2. Details of the dates have been provided in the F.I.R., but those dates are only with respect to her having gone to her husband's place of work and her parents' house. There is also an allegation of petitioners having forced her to sign a blank sheet of paper admitting that she is committing suicide because of her own dissatisfaction with her life.

On the basis of the aforesaid accusation, the subject F.I.R. was registered against the petitioners, the husband of opposite party No. 2 and two others.

It is noteworthy to state here that in the case of two other accused persons about which reference has been made, viz., Rahul Raj @ Rahul and Ravi Shankar Rai, a Bench of this Court, way-back on 30.03.2015, set-aside the order of cognizance.

The aforesaid two petitions which are being disposed off by this order, was also filed in the year 2015, but the same could not be taken up earlier.



The main plank of the argument of the learned lawyer appearing for the petitioners is that only because the petitioners stand in some close relationship with the husband of opposite party No. 2, with whom she could not reside happily and successfully as his wife, they have been implicated in this false case. It has further been submitted that in the entire gamut of allegation, except for vague accusation, nothing specific has been alleged against the petitioners. Even married daughter of the family has not been spared.

Mr. Ramakant Sharma, learned Senior Advocate for the petitioners, while referring to the judgment delivered by the Supreme Court in ***Preeti Gupta & Anr. Vs. State of Jharkhand & Anr.; (2010) 7 SCC 667***, has stated that the usual refrain of the Courts dealing with complaints and First Information Reports under Section 498-A of the Indian Penal Code is that accusations are levelled against the family members of the husband with oblique motive and false



accusations. It has been submitted that it has been his experience as a member of the Bar and as a citizen that more often than not, accusations are exaggerated and even distant relatives are made accused in a flash of temper and with a motive to wreak vengeance on the family of the husband with whom the wife could not live successfully. At the time of filing of the complaint or F.I.R., the impact and consequences of the accusation are normally not properly visualized and the net result is that it leads to insurmountable harassment, agony and pain to all, which includes the family of the complainant/informant and the family of the husband.

The Bench, while dealing with such a matter in case of **Preeti Gupta** (supra) could not keep itself oblivious to the developments in society and, therefore, also observed that the provision of Section 498-A is required to be given a serious re-look in the wake of the tendency of over implication in a large number of cases.



Similar views have been expressed by the Supreme Court in ***Geeta Mehrotra & Anr. Vs. State of Uttar Pradesh & Anr.; (2012) 10 SCC 741***, wherein it was conclusively held that it would only be appropriate to quash the proceedings of such accused persons against whom no definite material is disclosed in the F.I.R. or during the course of investigation. The reason for saying so was that merely by making a general allegation, the accusation did not become truthful and in fact, such over implication, which is in the nature of false implication, serves no good purpose; rather harms the family of the complainant as well. It renders no room for any reconciliation which may take place if the issues are handled properly. This may not auger well for each and every member of the family of the couple.

Similar arguments have been advanced by Dr. Amrendra Kumar, learned counsel for the petitioners in Cr. Misc. No. 18665 of 2015. It has been submitted that without any specific accusation,



the petitioners ought not be put to the rigors of trial.

As opposed to the aforesaid contentions, Mr. Samrendra Kumar Verma, learned Advocate for the opposite party No. 2 has drawn the attention of this Court to a judgment of the Supreme Court in ***Nitika Vs. Yadwinder Singh & Ors.***, delivered in ***Cr. Appeal No. 1096 of 2019***, wherein 'cruelty' has been defined and explained. The Supreme Court in the aforesaid case relied upon another judgment of the Supreme Court in ***Rupali Devi Vs. State of Uttar Pradesh & Ors.; 2019 (6) SCALE 96***, which sets out that 'cruelty' is the crux of the offence under Section 498A of the I.P.C. 'Cruelty' is defined as an intentional and malicious infliction of mental or physical suffering on a living creature. It could be abusive treatment, incidences of outrage and could be mental cruelty also impinging upon the human dignity of a person. Stress and trauma suffered by the victim, if relatable to some act on the part of the family members of the husband, would surely make such family members liable for



being prosecuted, but the accusation has to be specific and the act complained of being for the purpose of torturing and harassing the woman of the house.

No doubt, even family members can contribute to the torture/harassment of a newly wed lady and they cannot get away by taking resort to the defence of their being related to the husband and, therefore, necessarily to be taken as victim of false implication. Nonetheless, the refrain of the Courts and the objective finding that such accusations and over implication have become rampant, it would only be desirable for any Court of law to wean the truth from the maze of facts, which more often than not is the description of daily affairs in a household where situation is far from pleasant.

From the perusal of the F.I.R. and other documents annexed with the applications, it appears that an attempt initially was made by the husband of opposite party No. 2 to have the conjugal rights restituted by resorting to the relevant provision under



the Hindu Marriage Act. When the situation did not improve, divorce case was filed by the husband of the opposite party No. 2, which is still pending adjudication.

This Court has also been informed that the opposite party No. 2 is being afforded maintenance by her husband.

Some efforts, at some point of time, were made at the instance of the Court and of the learned Advocates appearing for the parties, for a reconciliation, but it appears that such efforts came a cropper.

In this background, it appears to be very clear that there has been an over implication in the present case and all the family members have been made accused. The petitioners though stand in close relation to husband of the opposite party No. 2, but in the absence of any specific accusation, as has been noted above, it would not be in the interest of justice to put them through the wringer of trial.



The provision of Section 482 of the Code of Criminal Procedure stands in solitary splendor and provides the Court with the inherent powers to administer justice or to pass such orders which would secure the ends of justice. It may not be necessary to list the cases in which the powers under Section 482 of the Code of Criminal Procedure has been explained and adumbrated, but it is observed that whenever a Court identifies that there is an attempt at abuse of the process of the Court and it is required to interfere for securing the ends of justice, the self-imposed restraint ought not to come in the way of passing of such order which would come handy in the process of administration of justice.

To tie the strings together, the accusation against the petitioners being vague and not substantiated by any definite proof; the opposite party No. 2 being maintained by her husband, existence of a divorce proceeding which is yet to be adjudicated upon and the petitioners also are required to be permitted to



lead an existence free of fear, this Court deems it appropriate to exercise its power under Section 482 of the Code of Criminal Procedure to set-aside the order of cognizance against the petitioners and the resultant criminal prosecution arising therefrom.

The orders impugned in both the applications are, therefore, quashed.

The applications are allowed.

(Ashutosh Kumar, J)

Praveen-II/-

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